

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

STEPHEN D. CAIAZZO,
Plaintiff

v.

THE MEDALLION INSURANCE
AGENCIES, INC.,
Defendant

CIVIL ACTION NO.
04-12627 RCL

**PLAINTIFF'S MOTION FOR RELIEF FROM SUMMARY
JUDGMENT ON HIS CLAIM FOR PROPERTY LOSS**

The plaintiff, Stephen D. Caiazzo ("Caiazzo"), hereby moves for relief from the Court's ruling on September 18, 2006, granting summary judgment for the defendant, The Medallion Insurance Agencies, Inc. ("Medallion") on Caiazzo's claim for loss of his personal property.

The grounds for this motion are based on the provisions of F.R.Civ.P., Rule 60(b). Specifically, Caiazzo seeks relief under Rule 60(b)(3) for the misrepresentation of defense counsel that the date of loss was September 1, 2001 or sometime in September 2001. In addition, Caiazzo seeks relief under Rule 60(b)(1) for his excusable neglect, since Caiazzo could not have anticipated the need to provide an affidavit or documents to establish the date of loss, which came up for the first time at oral argument on the summary judgment motion. Finally, Caiazzo seeks relief pursuant to Rule 60(b)(6), since this motion, the Affidavit of Stephen D. Caiazzo, filed herewith, and the memorandum of law, filed herewith, show that justice would be denied if Caiazzo were not allowed to pursue his legitimate claim for loss of his personal property.

Caiazzo relies on his affidavit with documents attached and on the memorandum of law, both filed herewith, in support of this motion.

By Plaintiff's Attorney,

/s/ Dean Carnahan
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(781) 641-2825

Dated: September 29, 2006

B-2274-MR

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CERTIFICATE OF SERVICE

I, Dean Carnahan, hereby certify that on this day this document(s) filed through the ECF system will be sent electronically to the registered participants on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

Date: September 29, 2006

/s/ Dean Carnahan
DEAN CARNAHAN